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10 *Attorneys for Lead Plaintiff Tyler Hardy,  
 11 named Plaintiff Danny Rochefort,  
 and the proposed Classes*

12 **UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA**

14 TYLER HARDY and DANNY  
 15 ROCHEFORT, Individually and On Behalf of  
 All Others Similarly Situated,

16 Plaintiffs,

17 v.

18 EMBARK TECHNOLOGY, INC. f/k/a  
 19 NORTHERN GENESIS ACQUISITION  
 20 CORP. II, IAN ROBERTSON, KEN  
 MANGET, CHRISTOPHER JARRATT,  
 PAUL DALGLISH, ROBERT SCHAEFER,  
 BRAD SPARKES, ALEX RODRIGUES, and  
 21 RICHARD HAWWA,

22 Defendants.

23 No. 3:22-cv-02090-JSC

24 **CLASS ACTION**

25 **DECLARATION OF BRENDA SZYDLO  
 26 IN SUPPORT OF PLAINTIFFS'  
 27 UNOPPOSED MOTION FOR  
 PRELIMINARY APPROVAL OF CLASS  
 ACTION SETTLEMENT**

28 Hon. Jacqueline Scott Corley

1 I, BRENDA SZYDLO, declare as follows:

2 1. I am an attorney admitted to practice *pro hac vice* in this Court and Partner at the  
3 law firm Pomerantz LLP, Lead Counsel for Lead Plaintiff Tyler Hardy (“Lead Plaintiff”) and  
4 named Plaintiff Danny Rochefort (together with Lead Plaintiff, “Plaintiffs”) in the above-  
5 captioned action.

6 2. I submit this Declaration in Support of Plaintiffs’ Unopposed Motion for  
7 Preliminary Approval of Class Action Settlement. I have personal knowledge of the matters stated  
8 herein and, if called upon, I could and would competently testify thereto.

9 3. Attached are true and correct copies of the following exhibits:

10 **Exhibit 1:** Stipulation and Agreement of Settlement (the “Stipulation”), dated May 17,  
11 2023

12 **Exhibit A to the Stipulation:** [Proposed] Order Preliminarily Approving  
13 Settlement and Providing for Notice

14 **Exhibit A-1 to the Proposed Preliminary Approval Order:** Notice of  
15 Pendency and Proposed Settlement of Class Action

16 **Exhibit A-2 to the Proposed Preliminary Approval Order:** Proof of  
17 Claim and Release Form

18 **Exhibit A-3 to the Proposed Preliminary Approval Order:** Summary  
19 Notice

20 **Exhibit B to the Stipulation:** [Proposed] Order and Final Judgement

21 **Exhibit 2:** Firm Resume

22 4. As stated in the proposed Notice, Lead Counsel will seek up to \$835,000 in  
23 attorneys’ fees (33.4% of the Settlement Amount), plus interest, for its work litigating the case and  
24 negotiating the Settlement. The lodestar that Lead Counsel has incurred from inception until May  
25 14, 2023 in this matter is roughly \$965,000 (including 1,249 total hours). If a 33.4% fee were  
26 requested and then granted in full, such award would result in a “lodestar multiplier” of

1 approximately 0.87 on all lodestar time billed to May 14, 2023. Lead Counsel will also seek an  
2 award of up to \$140,000 for reimbursement of expenses, plus interest, for its reasonable litigation  
3 expenses incurred in prosecuting the Action. Such expenses will be further detailed in counsel's  
4 fee and expense application, including court filing fees, legal research fees, expert fees, and other  
5 customarily reimbursed expenses.

6 5. With respect to Lead Counsel's selection of a settlement administrator for this  
7 Action, Lead Counsel requested bids from three proposed settlement administrators, each of which  
8 submitted a bid proposing the mailing/emailing of a notice, publication of summary notice on a  
9 national business newswire, and designing and maintaining a website and call center. Upon review  
10 of these bids, Lead Counsel chose Strategic Claims Services ("SCS") as the proposed Settlement  
11 Administrator. The estimated total for fees and expenses (excluding broker charges) is  
12 \$333,859.00 (or approximately 13% of the Settlement Amount) to be paid from the Settlement  
13 Amount. In the last two-years, Pomerantz has engaged SCS 16 times.

14 6. In early April 2023, the Company disclosed to Plaintiffs that it does not maintain  
15 Directors and Officers liability insurance for securities claims against the Company but does  
16 maintain "Side A" Directors and Officers liability insurance.

17 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
18 knowledge. Executed this 17 day of May, 2023.

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21 /s/ Brenda Szydlo  
Brenda Szydlo  
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